

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DENISE BLACKWELL

§

§

vs.

§

CIVIL ACTION NO. 6:17cv376

§

COMMISSIONER, SOCIAL

§

SECURITY ADMINISTRATION

§

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED
STATES MAGISTRATE JUDGE**

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the decision of the Commissioner be affirmed and that the complaint be dismissed with prejudice. Plaintiff filed written objections on March 18, 2019.

In her objections, Plaintiff asserts that the Report and Recommendation erred in finding that the ALJ applied the correct legal standards when formulating the residual functional capacity (“RFC”) finding. Plaintiff alleges that the ALJ failed to explain the weight given to each medical opinion.

Similar to Plaintiff’s opening brief, Plaintiff’s written objections do not identify a medical opinion that was not assigned a weight by the ALJ. Instead, Plaintiff merely relies on a conclusory statement that the ALJ failed to explain the weight given to each medical opinion. The regulations provide for an ALJ to weigh medical “opinions.” *See* 20 CFR 404.1527. “Medical opinions are statements from acceptable medical sources that reflect judgments about the nature and severity

of [a claimant's] impairment(s), including [his] symptoms, diagnosis and prognosis, what [he] can still do despite impairment(s), and [his] physical or mental restrictions.” 20 CFR 404.1527(a)(1). Generally, considerable weight is given to the opinions of treating physicians. 20 C.F.R. § 404.1527. As the ALJ noted, however, the record does not contain any medical opinions from a treating physician.¹ The ALJ then assigned a weight to each medical opinion in the record, including those of Dr. Winsted and the State agency medical consultants.² Plaintiff's assertion that the ALJ failed to assign a weight to each medical opinion is incorrect and lacks merit.

Having made a *de novo* review of the written objections filed by Plaintiff, the findings, conclusions and recommendation of the Magistrate Judge are correct and Plaintiff's written objections are without merit. The findings and conclusions of the Magistrate Judge are, therefore, adopted as those of the Court. It is

ORDERED that Plaintiff's written objections are **OVERRULED**. The decision of the Commissioner is **AFFIRMED** and this Social Security action is **DISMISSED WITH PREJUDICE**. It is further

ORDERED that any motion not previously ruled on is **DENIED**.

So **ORDERED** and **SIGNED March 19, 2019**.



Ron Clark, Senior District Judge

¹ See Administrative Record, ECF 11-2, at *28 (Bates stamp p. 27).

² *Id.* at *29 (Bates stamp p. 28).